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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,047	09/28/2001	Carl Christian Hansen	42390P11378	4821

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN  
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR  
LOS ANGELES, CA 90025

EXAMINER

LEVITAN, DMITRY

ART UNIT	PAPER NUMBER
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2662

DATE MAILED: 06/13/2003

3

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/967,047

Applicant(s)

HANSEN, CARL CHRISTIAN

Examiner

Dmitry Levitan

Art Unit

2662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 September 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Drawings***

1. The drawings are objected to because of typographical error on Fig. 1, "DSCAM" instead of DSLAM. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

2. The disclosure is objected to because of the following informalities: typographical error on page 7: "Data stream 300" instead of Data stream 200.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 5-8, 10-13, 15, 16, 20, 22, 24-26, 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Tzannes (WO 01/20864).

Regarding claims 1-3, 5-8, 10-13, 15, 16, 20, 22, 24-26, 28, Tzannes teaches a method, an article, a signal, an apparatus and a framer (id Fig. 1 and 2, 7:19-24, 8:1-24, 9:1-21) comprising:

Art Unit: 2662

Transmitting and receiving an ADSL stream (id Fig. 1 and 1:22-24, 2:1-24) with a first proportion of voice signal to data signals (Application Profile #2 id 15:1-6) when a telephone coupled to receive the communication stream is in a first state, wherein the voice signal includes both audio and control signals; and

Transmitting the communication stream with a second proportion of voice signals (Application Profile #1 id 14:17-24) to data signals when the telephone is in a second state, wherein the voice signal includes control signals and no audio signals

Regarding claims 16 and 20, Tzannes teaches a control circuit (transceiver 10 and 14 on id Fig. 1 and 19: 24-25, 20:1-5) coupled to a telephone to determine the telephone state and A framer to receive DSL signals and to allot the appropriate bandwidth.(transceiver 10 and 14 on id Fig. 1 and 20:12-25).

Regarding claim 24, Tzannes teaches a framer to pass DSL signals, to allot an appropriate bandwidth to the telephone in on and off hook conditions (transceivers 10 and 14 on id Fig. 1, 12:13-25, 13:1-13).

Regarding claims 25 and 26, Tzannes teaches a framer wherein the allocated bandwidth for on hook telephone is smaller than off-hook telephone and comprises 64 kbit/sec. (id 12:13-25, 13:1-13).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2662

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 9, 14, 17, 19, 21, 23, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tzannes.

Regarding claims 4, 9 and 14, Tzannes substantially teaches all the limitations of claims 1, 6, and 11 including an 8-bit signal transmitted at 8 kHz (inherently in the system because Tzannes teaches 64kbits/sec rate for a voice application id 12:13-22).

Tzannes does not teach second proportion comprising a 1-bit voice signal transmitted at 8 kHz. It would have been obvious to one of ordinary skill in the art at the time the invention was made to add second proportion comprising a 1-bit voice signal transmitted at 8 kHz to the system of Tzannes, since applicant has not disclosed that using 1-bit at 8 kHz. solves any particular problem and it appears that 2-bits at 8 kHz or 1-bit at 192 kHz would perform equally well.

Regarding claims 17, 21 and 27, Tzannes substantially teaches all the limitations of claims 16, 20, 24 and 26 including 64 kbit/sec rate for a voice application (id 12:13-22).

Tzannes does not teach the first bandwidth comprises 8 kbit/sec.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add the first bandwidth comprises 8 kbit/sec to the system of Tzannes, since applicant has not disclosed that using 8 kbit/sec solves any particular problem and it appears that 4 kbit/sec or 16 kbit/sec would perform equally well.

Regarding claims 19, 23 and 28, Tzannes substantially teaches all the limitations of claims 16, 20 and 24 including a multiplexer to receive signals from a telephone and pass the additional data signals (id Fig. 2 and 17:22-25, 18:1-3) in both directions (id 17:3-6).

Tzannes does not teach two multiplexers.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use two multiplexers in the system of Tzannes, since such modification is involved a mere making the multiplexer separable – In re Dulberg, 289 F.2d 522, 523, 129 USPQ 348, 349.

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

O'Toole	US006373860B1	Dynamically-assigned voice and data channels in a DSL.
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Gross	US006266348B1	Splitterless Multicarrier modem.
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Johnson	US005960036A	Apparatus and method for auto-configuring a communication system.
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Sansom	US006519267B1	Use of robbed frame bits to provide secondary POTS channel over extended range ISDN network.
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Cain	US005144625A	DSL termination with signaling.
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Scott	US006470046B1	Apparatus and method for a combined DSL and voice system.
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Tzannes                      US006498808B1              Seamle4ss rate adaptive Multicarrier modulation  
system and protocols.

Greszczuk                      US006445730B1              Multicarrier transmission system with low power  
sleep mode and rapid-on capability.

Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to Dmitry Levitan whose telephone number is 703-305-4384. The  
examiner can normally be reached on 8:30 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, Hassan Kizou can be reached on 703-305-4744. The fax phone numbers for the  
organization where this application or proceeding is assigned are 703-872-9314 for regular  
communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding  
should be directed to the receptionist whose telephone number is 703-305-4750.

Dmitry Levitan  
Patent Examiner.  
June 6, 2003



HASSAN KIZOU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600